REMARKS

Reconsideration of the present application is requested. Claims 3-4, 11, and 15-21 have been cancelled without prejudice or disclaimer. Claims 33-40 have been added. Support for amendments made herein may be found, for example, in FIG. 2 and paragraphs [0028-0036] of the specification.

CLAIM OBJECTIONS

The Examiner objects to claims 1, 8, 22 and 31 because claims 1 and 22 and claims 8 and 31 are allegedly duplicates of one another. Although Applicants do not necessarily agree with this objection Examiner, the amendments to claims 1 and 8 are believed to render this rejection moot.

REJECTION UNDER 35 U.S.C. §101

The Examiner rejects claims 14 and 23 under 35 USC § 101 as allegedly being directed to non-statutory subject matter. Although Applicants do not necessary agree with the Examiner's rejection, claims 14 and 23 have been amended to recite "A computer readable storage medium including computer executable instructions..." and thus are clearly statutory. In light of these amendments, withdrawal of this rejection is requested.

PRIOR ART REJECTIONS

REJECTION UNDER 35 U.S.C. § 103

The Examiner rejects claims 1-32 under 35 USC § 103(a) as allegedly unpatentable over U.S. Patent No. 6,031,910 ("*Deindl*") in view of U.S. Patent No. 7,234,059 ("*Beaver*"). This rejection is respectfully traversed.

Neither *Deindl* nor *Beaver* discloses or fairly suggests an electronic data processing system including, "a centralized third data store for storage and retrieval of all available data keys," as required by claim 8. *Deindl* describes a <u>distributed</u> system and method of storage for data keys. Keys are associated with individual users (i.e., patients) and recorded on to electronic memory cards carried by those users. The user controlled <u>distributed cards</u> encrypt and decrypt data entering and leaving the data processing system. *Deindl* fails to disclose or fairly suggest a <u>centralized</u> approach to data key storage and retrieval for all data keys.

Moving forward, the Examiner correctly recognizes that *Deindl* fails to disclose or fairly suggest at least some of the features of claim 8. The Examiner relies upon *Beaver* to make up for these deficiencies. However, *Beaver* also fails to disclose or suggest at least a "centralized third data store for storage and retrieval of all available data keys," as required by claim 8. Accordingly, assuming *arguendo Deindl* could be combined with *Beaver* (which Applicants do not admit), the resultant combination still fails to render claim 8 obvious because neither *Beaver* nor *Deindl* discloses or fairly suggests at least "a centralized third data store for storage and retrieval of all available data keys," as required by claim 8. Instead, at most the resultant combination would still rest on storing keys in a <u>distributed</u> manner.

For at least the foregoing reasons, claim 8 is patentable over *Deindl* in view of *Beaver*. Claim 1 is patentable over *Deindl* in view of *Beaver* for at least reasons

somewhat similar to those set forth above with regard to claim 8. Claims 2, 5-7, 9, 10, and 12-14 are patentable over *Deindl* in view of *Beaver* at least by virtue of their dependency from claims 1 or 8.

With respect to claim 22, in combining *Beaver* with *Deindl*, the Examiner alleges:

> It would have been obvious with ordinary skill in the art at the time of the invention to incorporate [*Beaver*'s] associating the user with a user group including a plurality of users such that a data key is assigned to the user based on the user group with which the user is associated, and the same key [is] being assignable to [a] the plurality of users with *Deindl* et al motivated by "this scheme preserves anonymity as long as all group members use the same key, no one knows which members encrypted the message. Furthermore, it provides data integrity because if a message has been altered since it was sent, it will not encrypt properly"

In making this statement, the Examiner relies upon column 2, lines 23-27 of *Beaver*. But, the Examiner fails to consider the entirety of both *Deindl* and *Beaver* and the context of these disclosures in concluding that one of ordinary skill would combine these references.

Deindl provides "a storage and information system and method for the transfer of information required to be protected, which allows the maximal exchange of information between a plurality of users, but ensures... that the system/method only permits the entry and reading of said information to those authorized therefore." See, col. 2, lines 25-31 of *Deindl.* Thus, the method and system described by *Deindl* is primarily concerned with secure exchange of data; in other words, preventing unauthorized use.

Beaver discloses that one way to provide authentication in an anonymous environment (where the sender of a message is unidentifiable) is to have all the group members share a common piece of information. This scheme provides anonymity as long as the group members use the same key because no one knows which member

encrypted the message. But, as discussed in column 2, lines 29-37 of *Beaver*, the authentication scheme in which all group members share a common piece of information (a key) decreases security in that there is no way to identify an unauthorized user who has illegitimately obtained the key. Moreover, the key would have to be updated whenever a group member leaves or if the key were suspected of being compromised.

The system of *Deindl* relates to patient's medical information and diagnosis for which security is of an utmost concern – to both patients and healthcare providers. With this in mind, any decrease in security or potential decrease of security of information, would actually lead one of ordinary skill *away* from combining *Deindl* with *Beaver*, not give one of ordinary skill reason to do so.

Moreover, due to the dynamic nature of the healthcare system in which various doctors assist patients, combining *Deindl* with *Beaver* as suggested by the Examiner would require frequent changes and updates to the key such that doctors who are not supposed to have access to patient data would not have access to patient data. This too would lead one of ordinary skill away from modifying *Deindl* with the disclosure of *Beaver*, as suggested by the Examiner.

In sum, when considering the entirety of *Deindl* and *Beaver* and the context of each disclosure, one of ordinary skill would actually be lead away from combining the references as suggested by the Examiner.

For at least the foregoing reasons, claims 22-32 are not rendered obvious by *Deindl* in view of *Beaver*. Withdrawal of this rejection is requested.

NEW CLAIMS

Applicants have added new claims 33-40, which are also believes to be patentable over the cited art. Allowance of these new claims is requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the pending claims in connection with the present application is earnestly solicited.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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